IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 4288 of 2003(I)

PETITIONER:

A.T. JOSEPH, ATHIYALIL,
PONKUNNAM, KOTTAYAM DISTRICT
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
SMT. TESSYKUTTY JOSEPH.

BY ADV. SRI.V.GIRI

RESPONDENTS:
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1. **REGISTRAR OF CO-OPERATIVE SOCIETIES,**
   THIRUVANANTHAPURAM.

2. **ELAMGULAM SERVICE CO-OPERATIVE BANK LTD.**
   NO.3576, H.O. KOORALI, KOTTAYAM DISTRICT
   REPRESENTED BY ITS ADMINISTRATOR.

BY SPL.GOVT.PLEADER SMT.DEEPA
SRI.TOM JOSE

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.7588/2003 IN OP. NO.4288/2003

DISMISSED

14.03.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE POWER OF ATTORNEY DT.9.9.99 ISSUED BY THE PETITIONER.

EXT.P2:- COPY OF THE CERTIFICATE DT.3.11.01 CHIRAKADAVU, PONKUNNAM.

EXT.P3:- COPY OF THE COMMUNICATION DT.24.9.98 ISSUED TO A DOCUMENT WRITER.

EXT.P3(a):- COPY OF THE MORTGAGE DEED BEARING NO.722/94 OF KANJIRAPALLY SRO.

EXT.P3(b):- COPY OF THE MORTGAGE DEED NO.5126/95 OF KANJIRAPALLY SRO.

EXT.P4:- COPY OF THE COMMUNICATION DT.24.9.98 ISSUED TO A DOCUMENT WRITER.

EXT.P4(a):- COPY OF THE MORTGAGE DEED NO.763/94 OF KANJIRAPALLY SRO.

E.XT.P5:- COPY OF THE COMMUNICATION DT.24.9.98 ISSUED TO A DOCUMENT WRITER.

EXT.P5(a):- COPY OF THE MORTGAGE DEED NO.785/95 OF KANJIRAPALLY SRO.

EXT.P6:- COPY OF THE COMMUNICATION DT.24.9.98 ISSUED TO A DOCUMENT WRITER.

EXT.P6(a):- COPY OF THE MORTGAGE DEED NO.1071/94 OF KANJIRAPALLY SRO.

EXT.P7:- COPY OF THE RELEASE DEED DT.7.10.98 IN RESPECT OF THE MORTGAGE DEED NO.722/94.

EXT.P8:- COPY OF THE RELEASE DEED DT.7.10.98 IN RESPECT OF THE MORTGAGE DEED NO.763/94.

EXT.P9:- COPY OF THE RELEASE DEED DT.7.10.98 IN RESPECT OF THE MORTGAGE DEED NO.785/94.

EXT.P10:- COPY OF THE RELEASE DEED DT.7.10.98 IN RESPECT OF THE MORTGAGE DEED NO.1071/94.

EXT.P11:- COPY OF THE RELEASE DEED DT.9.10.98 IN RESPECT OF THE MORTGAGE DEED NO.5126/95.

EXT.P12:- COPY OF THE PETITION DT.12.8.02 BEFORE THE 1ST RESPONDENT BY THE PETITIONER.

EXT.13:- COPY OF THE ORDER BEARING CP.4/29082/02 DT.7.1.03 OF THE 1ST RESPONDENT.

OP. NO.4288/2003

RESPONDENTS EXHIBITS

EXT..R2(a):- COPY OF THE SECURITY BOAN EXECUTED BY THEYAMMA JOSE AND SABU V.JOSE WITH REGARD TO THE PROPERTY FOR WHICH RELEASE DEED IS SOUGHT VIDE THE ABOVE ORIGINAL PETITION DT.5.3.94.

EXT.R2(b):- COPY OF THE REPRESENTATION DT.20.11.98 PREFERRED BY SABU V.JOSE BEFORE THE 2ND RESPONDENT.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P.No.4288 of 2003

Dated 14th March, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> (a) "Call for the records leading to Ext.P13 and quash the same by the issuance of a certiorari or any other appropriate writ, order or direction;
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> (b) issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to register the release deeds in respect of the mortgage deeds 722/94, 763/94, 785/94, 1071/94 and 5126/95 of Kanjirapally SRO in the appropriate registry within a time limit to be fixed by this Hon'ble Court."

It is seen from the counter affidavit filed by the second respondent that only because of the dues to the bank, and the objection raised by the second respondent in that regard, the deed was not released. In case the petitioner has still any grievance left, it will be open to the petitioner to approach the Government, since Ext.P13 is an appealable order. In the event of the petitioner filing the appeal within two months from today, the same will be duly considered and appropriate orders in accordance with law with notice to the petitioner and the second respondent will be passed, within another four months.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

KURIAN JOSEPH, J

O.P.No.4288 of 2003

J U D G M E N T

Dated 14th March, 2007.